

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

LUIS GUTIERREZ LEANOS and

IRVIN WVALLE OSEJO,

Defendants.

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No. 3:23-CR-62-KAC-DCP

MEMORANDUM AND ORDER

All pretrial motions in this case have been referred to the undersigned pursuant to 28 U.S.C. § 636(b) for disposition or recommendation as appropriate. This case is before the Court on Defendant Luis Gutierrez Leanos's Motion to Continue Trial and All Related Deadlines [Doc. 27], filed on January 4, 2024, and Defendant Irvin Wvalle Osejo's Motion to Join Co-Defendant's Motion to Continue [Doc. 29], filed on January 5, 2024.

Defendant Leanos asks the Court to continue the current trial date of February 6, 2024 and all related deadlines [Doc. 27]. In support of his motion, Defendant avers that defense counsel was appointed to represent him on June 26, 2023. While defense counsel has had adequate time to review discovery with Defendant, he has received "a potential agreement in principle from the Assistant United States Attorney about resolution and/or trial of this case" [*Id.*]. Therefore, Defendant Leanos requests more time for counsel to "discuss the ramifications of the proposed agreement" [*Id.*]. Finally, Defendant Leanos's motion reflects that the Government does not oppose the requested continuance.

The Court ordered all parties to file a position on the matter of continuance [Doc. 28]. In response to the Court's order, Defendant Irvin Osejo filed a Motion to Join Co-Defendant's Motion to Continue [Doc. 29], adopting the grounds for a continuance set forth in Defendant Leanos's motion. Defendant Osejo's motion also states that the Government does not oppose.

Based upon the information provided by Defendants Leanos and Osejo in their respective motions, the Court finds the ends of justice served by granting a continuance outweigh the interests of Defendants and the public in a speedy trial. *See* 18 U.S.C. § 3161(h)(7)(A). In making this determination, the Court has considered the factors set forth in 18 U.S.C. § 3161(h)(7)(B). Specifically, the Court concludes that failing to grant a continuance would both result in a miscarriage of justice and deny counsel for Defendants the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. *See id.* § 3161(h)(7)(B)(i)–(iv). Counsel for Defendants need more time to review plea agreements made by the Government, to engage in further potential plea negotiations, and to prepare for trial in the event those negotiations are not fruitful. The Court finds that all of this cannot occur before the February 6, 2024 trial date.

The Court therefore **GRANTS** Defendant Luis Gutierrez Leanos’s Motion to Continue Trial and All Related Deadlines [**Doc. 27**] and Defendant Irvin Wvally Osejo’s Motion to Join Co-Defendant’s Motion to Continue [**Doc. 29**]. The trial of this case is reset to **April 30, 2024**. A new, comprehensive, trial schedule is included below. Because the Court finds the ends of justice served by granting a continuance outweigh the interests of Defendants and the public in a speedy trial, all of the time between the filing of the initial motion on January 4, 2024, and the new trial date is fully excludable time under the Speedy Trial Act. *See* 18 U.S.C. § 3161(h)(1)(D), -(h)(7)(A)–(B).

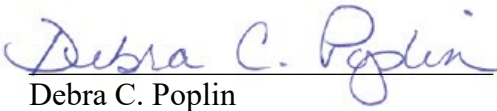
Accordingly, it is **ORDERED** as follows:

- (1) Defendant Luis Gutierrez Leanos’s Motion to Continue Trial and All Related Deadlines [**Doc. 27**] and Defendant Irvin Wvally Osejo’s Motion to Join Co-Defendant’s Motion to Continue [**Doc. 29**] are **GRANTED**;
- (2) The trial of this matter is reset to commence on **April 30, 2024, at 9:00 a.m.**, before the Honorable Katherine A. Crytzer, United States District Judge;

- (3) All time between the filing of the initial motion on **January 4, 2024**, and the new trial date of **April 30, 2024**, is fully excludable time under the Speedy Trial Act for the reasons set forth herein;
- (4) The new deadline for filing a plea agreement in the record and providing reciprocal discovery is **March 29, 2024**;
- (5) The deadline for filing motions *in limine* is **April 10, 2024**;
- (6) The parties are to appear before the undersigned for a final pretrial conference on **April 11, 2024, at 11:00 a.m.**; and
- (7) Requests for special jury instructions with appropriate citations to authority pursuant to Local Rule 7.4. shall be filed on or before **April 19, 2024**.

IT IS SO ORDERED.

ENTER:



Debra C. Poplin
United States Magistrate Judge